



State of Idaho

## DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS  
GOVERNOR

R. KEITH HIGGINSON  
DIRECTOR

RECEIVED  
JUN 8 1994

June 1, 1994

Department of Water Resources  
Eastern District Office

William R. Hollifield, P.A.  
Attorney at Law  
P.O. Box 66  
Twin Falls, ID 83303-0066

Dear Mr. Hollifield:

RE: Water Right Numbers 34-00243B and 34-00244D

Your letter of May 27, 1994 to Mr. Rosenkrance, Watermaster, Water District 34 has been referred to me for response.

The letter indicates you represent Mr. Rindfleisch as the owner of the above numbered water rights. The letter calls for delivery of the water rights to the head of the Cemetery Ditch, however, the listing of water rights approved by the SRBA Court for interim administration shows these water rights are diverted from the Big Lost River at the Arco Diversion into the Arco Canal. The Big Lost River Irrigation District operates the Arco Canal through which these water rights are conveyed to the Cemetery Ditch.

I am informed by Mr. Rosenkrance that these water rights were being delivered to the Arco Diversion on May 31, 1994. Mr. Rosenkrance also indicated these water rights had been delivered earlier this year but then had been requested by Mr. Rindfleisch to be rotated until Mr. Rosenkrance received your letter. I am informed this has been the basis of delivery for these water rights this year.

Since your letter requests delivery of these water rights to the Cemetery Ditch I am not certain if you intend to request delivery to the Arco Diversion or if you are making a complaint under Rule 40.08 of the Temporary Water Distribution Rules for Water District 34. This Rule allows the Watermaster to investigate allegations of the inappropriate delivery of natural flow water within canals and laterals. If this was the purpose of your letter then please clarify. Absent imposition of this rule the Watermaster will make delivery of these water rights to the Arco Diversion.

Your demand for delivery will be treated as a request for mitigation under the Temporary Water Distribution Rules for Water District 34. These Rules adopt a procedure to mitigate the impacts of junior ground water diversions by augmenting river flows. The augmented flows will, when requested, provide water to senior

William R. Hollifield, P.A.

June 1, 1994

Page 2

surface water rights that would have been available absent junior ground water diversions.

Mr. Rindfleisch is not able to receive more water than his water rights, and their relative priorities, entitle him to receive. I realize water right 34-00243B has an 1880 priority and that priority will more than likely always be "on" when water is called for. The water right must, however, be delivered through more than four miles of canal and the amount of water under this right, 0.16 cfs, is quite small for such a delivery system. Under some circumstances it may be futile to try to deliver this water right, particularly when the 1885 priority for 34-00244D does not allow diversion of water under the later water right.

I don't understand your demand "to prohibit transfer of water outside the district in order to deliver Mr. Rindfleisch's water." First of all, it is not clear whether the "district" you refer to is Water District 34 or the Big Lost River Irrigation District. In either event, the water rights being delivered are those approved by the SRBA Court for interim administration or as modified by transfers approved pursuant to §§ 42-222 or 42-222A, Idaho Code. If the purpose of your letter is to protest a pending transfer the specific water right(s) that are the subject of the transfer must be identified and protests must be submitted within the statutorily allowed time.

Mr. Rindfleisch's water rights will continue to be delivered to the Arco Diversion as long as Mr. Rindfleisch calls for the delivery of his rights, the priorities of his rights can be delivered from the augmented natural flow of the Big Lost River and it is not futile to try to deliver all or part of his water rights.

Yours truly,

  
R. KEITH HIGGINSON  
Director

cc: Doug Rosenkrance  
Big Lost River Irrigation District  
Eastern Region, IDWR

WILLIAM R. HOLLIFIELD, P.A.

ATTORNEY AT LAW

249 THIRD AVENUE EAST

P. O. BOX 66

TWIN FALLS, IDAHO 83303 0066

COPY

FAX (208) 734-8077

TELEPHONE (208) 734-5610

May 27, 1994

Doug Rosencrantz  
Water Master  
Water District 34  
Mackay, Idaho 83251

Dear Mr. Rosencrantz:

RE: Water Right (Subcase) Numbers 34-00243B &amp; 34-00244D

I represent James A. Rindfleisch, who owns real property located in Township 3 North, Range 27 E.B.M. Section 18, NE $\frac{1}{4}$ , which has a decreed water right of June 1, 1880, and of October 2, 1885. Mr. Rindfleisch has crops which will need water as soon as possible.

This is a formal "call" or demand for delivery of all of Mr. Rindfleisch's decreed water to the head of Cemetery Ditch for delivery to his farms.

This demand for delivery is made pursuant to Idaho Law and the Musser Decision. If it is necessary to cut off junior groundwater wells and to prohibit transfer of water outside the district in order to deliver Mr. Rindfleisch's water, then those junior rights must be stopped.

If Mr. Rindfleisch does not receive his decreed rights within ten (10) days, a lawsuit will be filed seeking injunctive relief, attorney fees and costs of suit.

Sincerely,

  
WILLIAM R. HOLLIFIELD

WS

cc James Rindfleisch

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

AJ5807NP  
(00-117)

IDAHO DEPARTMENT OF WATER RESOURCES  
ADJ. LISTING OF WATER RIGHTS

DATE: 05/31/94  
PAGE: 1

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	MAXIMUM DIVERSION	STAGE
34-00243B	JAMES A. RINDFLEISCH PO BOX 62 ARCO ID 83213	06/01/1880	IRRIGATION	05-01 10-15	0.16 CFS	DECREED

TOTAL DIVERSION RATE: 0.16 CFS  
TOTAL DIVERSION VOLUME: 0.00 AFA

SOURCE: BIG LOST RIVER  
FERRIS SLOUGH

TRIBUTARY: SINKS  
BIG LOST RIVER

POINT OF DIVERSION:  
T03N R27E S07

NENWSE R  
NENWSE I  
NENWSE  
NNWNW

T04N R26E S26

PLACE OF USE: IRRIGATION  
T03N R27E S18  
97.0 ACRES TOTAL

SENE 35.0

SWNE 12.0

NWNE 36.0

NENE 14.0

CONDITIONS OF APPROVAL:

C03 - RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION  
- PURSUANT TO IDAHO CODE 42-1416A.

DIVERSION MEANS: HEADGATE OF THE ARCO CANAL - PUMP TO SPRINKLER SYSTEM

REMARKS: WATER IS DELIVERED THROUGH ARCO CANAL AND THE FERRIS SLOUGH.  
USE OF THIS RIGHT WITH RIGHT NO. 34-00244D IS LIMITED TO A  
TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 242.5 AF, AND TO  
THE IRRIGATION OF A COMBINED TOTAL OF 97 ACRES IN A SINGLE  
IRRIGATION SEASON.

SOURCES FOR THIS RIGHT ARE BIG LOST RIVER TRIBUTARY TO SINKS  
AND FERRIS SLOUGH TRIBUTARY TO BIG LOST RIVER.

BIG LOST RIVER WATER IS INJECTED INTO AND REDIRECTED FROM  
FERRIS SLOUGH.

THE AMOUNT OF WATER REDIRECTED FROM FERRIS SLOUGH SHALL BE  
REDUCED WHEN NECESSARY TO PREVENT INJURY TO APPROPRIATORS OF  
WATER DOWNSTREAM FROM THE POINT OF REDIVERSION.

OTHER RIGHTS: 34-00244D

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	MAXIMUM DIVERSION	STAGE
34-00244D	JAMES A. RINDFLEISCH PO BOX 62 ARCO ID 83213	10/02/1885	IRRIGATION	05-01 10-15	2.04 CFS	DECREED

TOTAL DIVERSION RATE: 2.04 CFS  
TOTAL DIVERSION VOLUME: 0.00 AFA

TRIBUTARY: SINKS

SOURCE: BIG LOST RIVER

POINT OF DIVERSION:

T03N R27E S07 NENWSE R  
T04N R26E S26 NENWSE I  
NWNNW

PLACE OF USE: IRRIGATION

T03N R27E S18 NENE 14.0  
97.0 ACRES TOTAL NWNE 36.0  
SENE 35.0

CONDITIONS OF APPROVAL:

DIVERSION MEANS: HEADGATE OF THE ARCO CANAL - PUMP AND SPRINKLER SYSTEM

REMARKS:

WATER IS DELIVERED THROUGH FERRIS SLOUGH AND ARCO CANAL.  
USE OF THIS RIGHT WITH RIGHT NO. 34-00243B IS LIMITED TO A  
TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 242.5 AF, AND TO  
THE IRRIGATION OF A COMBINED TOTAL OF 97 ACRES IN A SINGLE  
IRRIGATION SEASON.

POINT OF INJECTION INTO AND POINT OF REDIVERSION FROM FERRIS  
SLOUGH.

THE AMOUNT OF WATER REDIVERTED FROM FERRIS SLOUGH SHALL BE  
REDUCED WHEN NECESSARY TO PREVENT INJURY TO APPROPRIATORS OF  
WATER DOWNSTREAM FROM THE POINT OF REDIVERSION.

OTHER RIGHTS: 34-00243B

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	MAXIMUM DIVERSION	STAGE
-----------------	----------------	------------------	-----------	-----------------------	----------------------	-------

34-002438	JAMES A. RINDFLEISCH PO BOX 62 ARCO ID 83213	06/01/1880	IRRIGATION	05-01 10-15	0.16 CFS	DECREED
-----------	--	------------	------------	-------------	----------	---------

TOTAL DIVERSION RATE: 0.16 CFS  
TOTAL DIVERSION VOLUME: 0.00 AFA

SOURCE: BIG LOST RIVER  
FERRIS SLOUGH

TRIBUTARY: SINKS  
BIG LOST RIVER

POINT OF DIVERSION:  
T03N R27E S07 NENE **R**  
NENESE **I**  
T04N R26E S26 NENESE  
NWNWNW

PLACE OF USE: IRRIGATION  
T03N R27E S18 NENE 14.0 NWNE 36.0 SWNE 12.0 SENE 35.0  
97.0 ACRES TOTAL

CONDITIONS OF APPROVAL:  
C03 - RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION  
- PURSUANT TO IDAHO CODE 42-1416A.

DIVERSION MEANS: HEADGATE OF THE ARCO CANAL - PUMP TO SPRINKLER SYSTEM

REMARKS: WATER IS DELIVERED THROUGH ARCO CANAL AND THE FERRIS SLOUGH.  
USE OF THIS RIGHT WITH RIGHT NO. 34-00244D IS LIMITED TO A  
TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 242.5 AF, AND TO  
THE IRRIGATION OF A COMBINED TOTAL OF 97 ACRES IN A SINGLE  
IRRIGATION SEASON.  
SOURCES FOR THIS RIGHT ARE BIG LOST RIVER TRIBUTARY TO SINKS  
AND FERRIS SLOUGH TRIBUTARY TO BIG LOST RIVER.  
BIG LOST RIVER WATER IS INJECTED INTO AND REDIRECTED FROM  
FERRIS SLOUGH.  
THE AMOUNT OF WATER REDIRECTED FROM FERRIS SLOUGH SHALL BE  
REDUCED WHEN NECESSARY TO PREVENT INJURY TO APPROPRIATORS OF  
WATER DOWNSTREAM FROM THE POINT OF REDIVERSION.

OTHER RIGHTS: 34-00244D

AJ5807NP  
(00-117)

IDAHO DEPARTMENT OF WATER RESOURCES  
ADJ. LISTING OF WATER RIGHTS

DATE: 05/31/94  
PAGE: 2

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	MAXIMUM DIVERSION	STAGE
34-00244D	JAMES A. RINDFLEISCH PO BOX 62 ARCO ID 83213	10/02/1885	IRRIGATION	05-01 10-15	2.04 CFS	DECREED

TOTAL DIVERSION RATE: 2.04 CFS  
TOTAL DIVERSION VOLUME: 0.00 AFA

TRIBUTARY: SINKS

SOURCE: BIG LOST RIVER

POINT OF DIVERSION:

T03N R27E S07 NENESE R  
T04N R26E S26 NENESE I  
NNNNW

PLACE OF USE: IRRIGATION  
T03N R27E S18  
97.0 ACRES TOTAL

WENE 14.0 NENE 36.0 SWNE 12.0 SENE 35.0

CONDITIONS OF APPROVAL:

DIVERSION MEANS: HEADGATE OF THE ARCO CANAL - PUMP AND SPRINKLER SYSTEM

REMARKS: WATER IS DELIVERED THROUGH FERRIS SLOUGH AND ARCO CANAL.  
USE OF THIS RIGHT WITH RIGHT NO. 34-00243B IS LIMITED TO A  
TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 242.5 AF, AND TO  
THE IRRIGATION OF A COMBINED TOTAL OF 97 ACRES IN A SINGLE  
IRRIGATION SEASON.

POINT OF INJECTION INTO AND POINT OF REDIVERSION FROM FERRIS  
SLOUGH.

THE AMOUNT OF WATER REDIVERTED FROM FERRIS SLOUGH SHALL BE  
REDUCED WHEN NECESSARY TO PREVENT INJURY TO APPROPRIATORS OF  
WATER DOWNSTREAM FROM THE POINT OF REDIVERSION.

OTHER RIGHTS: 34-00243B

WILLIAM R. HOLLIFIELD, P.A.

ATTORNEY AT LAW

249 THIRD AVENUE EAST

P. O. BOX 66

TWIN FALLS, IDAHO 83303 0066

COPY

FAX (208) 734-8077

TELEPHONE (208) 734-5610

May 27, 1994

Doug Rosencrantz  
Water Master  
Water District 34  
Mackay, Idaho 83251

Dear Mr. Rosencrantz:

RE: Water Right (Subcase) Numbers 34-00243B &amp; 34-00244D

I represent James A. Rindfleisch, who owns real property located in Township 3 North, Range 27 E.B.M. Section 18, NE $\frac{1}{4}$ , which has a decreed water right of June 1, 1880, and of October 2, 1885. Mr. Rindfleisch has crops which will need water as soon as possible.

This is a formal "call" or demand for delivery of all of Mr. Rindfleisch's decreed water to the head of Cemetery Ditch for delivery to his farms.

This demand for delivery is made pursuant to Idaho Law and the Musser Decision. If it is necessary to cut off junior groundwater wells and to prohibit transfer of water outside the district in order to deliver Mr. Rindfleisch's water, then those junior rights must be stopped.

If Mr. Rindfleisch does not receive his decreed rights within ten (10) days, a lawsuit will be filed seeking injunctive relief, attorney fees and costs of suit.

Sincerely,

  
WILLIAM R. HOLLIFIELD

WS

cc James Rindfleisch

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED